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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TRAERGER PELLET GRILLS LLC,

Plaintiff,

vs.

GMG PRODUCTS LLC,

Defendant.

Case No. 2:20-cv-02161-MMD-DJA

STATUS REPORT

The present action was stayed on January 12, 2021 pending resolution of co-pending US International Trade Commission Investigation No. 337-TA-1237 (the “ITC Investigation”), which involved the same parties and similar issues as the present action. (See D.I. 26, 27.) In particular, Traeger Pellet Grills LLC (“Traeger”) accuses GMG Products LLC (“GMG”) of infringing U.S. Patent Nos. 10,218,833 (the “’833 Patent”) and 10,158,720 (the “’720 Patent”) in both the present action and the ITC Investigation.

1 In the ITC Investigation, on September 3, 2021, former Chief
2 Administrative Law Judge Bullock (the “CALJ”) granted GMG’s Motion for
3 Summary Determination that the accused GMG products do not infringe the
4 asserted claims of the ’833 Patent. On December 29, 2021, Traeger appealed this
5 decision to the Court of Appeals for the Federal Circuit, but subsequently moved to
6 dismiss the appeal. On October 18, 2022, the Federal Circuit dismissed the appeal
7 relating to the ’833 Patent. *See Traeger Pellet Grills LLC v. ITC*, Case No. 22-
8 1312, Doc. 23 (Fed. Cir. Oct. 18, 2022).

9 With respect to the ’720 Patent, the CALJ issued a Final Initial
10 Determination on December 6, 2021 (attached as Exhibit A). The Final
11 Determination found that (i) the accused GMG products infringe claims 1 and 2 of
12 the ’720 Patent; (ii) Traeger has established a domestic industry with respect to the
13 ’720 Patent; (iii) GMG is estopped from asserting invalidity; and (iv) that there
14 was no inequitable conduct with respect to the ’720 Patent. (Ex. A at 111-112.)
15 GMG petitioned the US International Trade Commission (the “Commission”) for
16 reconsideration, but the Commission affirmed the decision. (See Ex. B,
17 Commission Determination not to Review Final Initial Determination.)

18 On August 29, 2022, GMG appealed the Commission’s decision to
19 the Court of Appeals for the Federal Circuit. *See GMG Products LLC v. ITC*, Case
20 No. 22-2171 (Fed. Cir. 2022). Specifically, GMG appealed the Commission’s
21 findings on claim construction, infringement, validity, and unenforceability due to
22 inequitable conduct. GMG filed its opening brief on December 19, 2022, and the
23 US International Trade Commission and Traeger, as intervenor, filed their
24 responsive briefs on March 31, 2023. GMG’s reply brief is currently due on April

21, 2023. A hearing in the appeal is anticipated, but it has not yet been scheduled.

Because the appeal relating to the '720 patent is still pending, the present case should remain stayed pursuant to 28 U.S.C. § 1659 until the ITC Investigation is fully resolved, which includes all appeals. In addition, although the US International Trade Commission proceedings with respect to the '833 patent have been resolved, the '833 patent is related to the '720 patent, and Traeger believes the case should remain stayed with respect to the '833 patent for the sake of judicial economy and efficiency. Thus, Traeger believes that the Court does not need to schedule any future events at this time.

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I certify that I am an employee of Kaempfer Crowell, and that on today's date, I electronically filed the **STATUS REPORT** with the United States District Court CM/ECF system, which will send a notice of electronic filing, to the addressee(s) shown below:

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DATED: April 18, 2023.

/s/ Morganne Westover
An employee of Kaempfer Crowell